

(1999) 03 SC CK 0129

In the Supreme Court Of India

Case No : Civil Appeal No. 3289 Of 1988

University of Calcutta and Others

APPELLANT

Vs

Dr Amiya Kumar Chakraborty

RESPONDENT

Date of Decision : 10-03-1999

Acts Referred:

Citation : (2000) 10 SCC 43

Hon'ble Judges : S. Rajendra Babu, J;S. N. Phukan, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. The respondent submitted his thesis on "Studies on the Etiopathogenesis of Buerger's Disease" for award of degree of DSc. The University appointed three experts as Board of Examiners to appraise the thesis and make a report. The experts who examined the thesis were:

1. Dr Martin Birnstingl, MS, FRCS, Consultant Surgeon, St. Bartholomew's Hospital, London. 2. Dr Graham Hill, MD ChM, FACS, Professor of Surgery, University of Auckland, New Zealand. 3. Dr Victor A. Mckusik, MD, William Osler, Professor of Medicine, John Hopkins School of Medicine, U.S.A.

2. Each of the examiners separately appraised the thesis submitted by the respondent and gave his views. The first two examiners recommended to the University for the award of the degree to the respondent while the third examiner, Dr Victor A. Mckusik, was not in favour of the grant of the degree. Thereafter, the Registrar sent a letter on 7-5-1984 stating that since the Board's recommendation was not unanimous, no further action could be taken in the matter. At this stage, the respondent filed a writ petition seeking quashing of the letter dated 7-5-1984 sent by the Registrar and further mandamus directing the University to reconsider the matter and award the degree. Learned Single Judge allowed the writ petition which on appeal was affirmed by the Division Bench. The result is that the University has no option but to grant the degree to the

respondent. Thereafter the University approached this Court in this appeal by special leave.

3. We have been taken through the judgments of the learned Single Judge and of the Division Bench of the High Court. The approach made by the High Court in this case is as if the respondent had a right for the conferment of the degree of DSc ignoring the fact that such conferment of the degree by the University is a matter of privilege and no right flows to any party merely because he submitted a thesis. All that is required is that the University should not act arbitrarily or unfairly. The relevant rules require that the conferment of the degree could be made by the Syndicate but the matter never went to the Syndicate. Therefore, the University could not have communicated to the respondent that he is not entitled to DSc Degree in view of the absence of a unanimous decision amongst the experts. In the circumstances of the case, we think that the appropriate course for the University to have adopted was to place the entire matter before the Syndicate which would have taken a decision on the report made by each of the expert. It was possible for them to rely upon the majority view or the minority view after examining the matter or even refer to another Board of Experts for examining the matter further. Therefore, the High Court could not have directed the University to act upon the majority view of the experts.

4. We set aside the order made by the High Court but in its place we pass the order directing the Syndicate of the University to examine the matter uninfluenced by the judgments of the High Court. In doing so the Syndicate shall also take note of the letter sent by the respondent on 5-1-1984 of the paper-book. Let the Syndicate take such action within three months from today.

5. The appeal is disposed of accordingly.